

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 01-1844

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Edward Mullis,

Petitioner-Appellant

v.

Roger Anderson, Superintendent,  
Hastings Correctional Center

Respondent-Appellee

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Appeal from the United States  
District Court for the  
District of Nebraska

[UNPUBLISHED]

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Submitted: November 16, 2001

Filed: February 4, 2002

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Before BYE and BEAM, Circuit Judges, and GOLDBERG,<sup>1</sup> Judge.

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PER CURIAM.

Petitioner-appellant, Edward Mullis, appeals the district court's<sup>2</sup> denial of his petition for habeas corpus. On August 31, 1996, Deputy Jimmy R. James of the Merrick County Sheriff's Office, responding to a complaint of a "suspicious blue

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<sup>1</sup>The Honorable Richard W. Goldberg, Judge, United States Court of International Trade, sitting by designation.

<sup>2</sup>The Honorable Warren K. Urbom, United States District Judge for the District of Nebraska.

van” parked in a field, approached a vehicle fitting this description parked at the Ace Motel. James discovered Mullis sitting inside the van and began to question him about his recent whereabouts. During the questioning, James noticed a strong smell of marijuana coming from Mullis, and asked Mullis if he had been smoking any illegal drugs. Mullis responded in the affirmative and handed James a marijuana joint. When a second officer arrived on the scene, Mullis indicated that there was more marijuana in his motel room. The officers requested permission to enter the room and Mullis consented, advising the officers where the marijuana could be found. The officers’ search yielded, inter alia, several marijuana plants and property fitting the description of items reported missing after a recent burglary in the area.

As a result of the search, Mullis was charged in Nebraska state court with five felonies. When the parties appeared for a scheduled hearing on Mullis’s motion to suppress the evidence obtained in the search, Mullis’s attorney informed the court that Mullis had agreed to plead guilty to two reduced charges, attempted marijuana harvesting and attempted burglary, in exchange for the State’s dismissal of the three remaining charges. The court advised Mullis of the rights he would be waiving by pleading guilty, including the right to have a hearing on whether the seizure of his property inside the motel room was lawful. The court determined that Mullis waived his rights freely, voluntarily, knowingly, and intelligently. Mullis was later sentenced to two consecutive terms of three to five years in prison pursuant to his guilty plea.

Although Mullis did not directly appeal his conviction or sentence, he did raise a post-conviction motion for ineffective assistance of counsel. After the Nebraska Supreme Court affirmed the lower court’s denial of the motion, Mullis filed a petition for writ of habeas corpus in federal district court. Mullis claimed that his counsel was ineffective because his counsel did not pursue a suppression hearing, and that had such a hearing occurred, Mullis would have prevailed on a number of Fourth Amendment claims.

The magistrate judge reviewed Mullis's claims and recommended that his petition be denied. The district court judge adopted the magistrate judge's report and recommendation, denied the petition, and entered judgment in favor of the respondent-appellee.

The district court and magistrate judge made careful and complete findings of fact. Having carefully reviewed the record and the applicable legal principles, we find no error in the district court's disposition of this matter. Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.